

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:98-CR-211 (02)

v.

HON. ROBERT HOLMES BELL

MARIO SALAZAR LOPEZ,

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Mario Salazar Lopez has filed a motion for modification or reduction of sentence (ECF No. 299) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The Probation Department filed a Report of Eligibility on June 29, 2016, (ECF No. 302) indicating Defendant appears ineligible for consideration of a modification of sentence. The Court filed an order (ECF No. 305) on June 30, 2016, allowing the parties 14 days to file objections to the Report of Eligibility. Defendant Lopez filed an objection to the Report of Eligibility on July 11, 2016 (ECF No. 307). The Court filed an Order Regarding Motion for Sentence Modification on July

12, 2016, (ECF No. 308) that the Probation Office prepare a Sentence Modification Report and appointing counsel to represent Mr. Lopez.

The Probation Department filed a Sentence Modification Report on September 12, 2016, (ECF No. 309) recommending a reduction of sentence is inconsistent with the policy statements because the new calculation does not result in a lower guideline range. Defense counsel filed a response to the Report of Eligibility on September 27, 2016, (ECF No. 311) concurring that Mr. Lopez is not eligible to receive a reduction at this time but wishes to preserve the issue for future consideration should the law change. The government filed a response to the Sentence Modification Report on October 17, 2016 (ECF No. 312) requesting that the Court deny defendant's motion.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (ECF No. 299) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

Dated: October 24, 2016

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE